

## Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

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Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact: , ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B02  
PLR-141191-10  
Date:  
January 27, 2011

### Legend

X =

Y =

A =

B =

Country =

Date1 =

Date2 =

Date3 =

Dear :

This responds to a letter dated October 1, 2010, and subsequent correspondence submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to file an entity classification election.

The information submitted states that X was formed under the laws of Country on Date1. X filed an entity classification election to be treated as a partnership for federal tax purposes effective on Date2. Until Date3, X was entirely owned by A and B. On

Date3, the entire ownership interest in X had been purchased by Y, a U.S. corporation. X represents that it is a foreign entity that was eligible to elect to be treated as an association taxable as a corporation for federal tax purposes, effective on Date3. However, no entity classification election was filed for X at that time. X represents that it has been consistently treated by Y as a corporation for federal tax purposes since Date3.

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes. Elections are necessary only when an eligible entity does not want to be classified under the default classification or when an eligible entity chooses to change its classification.

Section 301.7701-3(b)(2)(i) provides that, except for certain existing entities described in § 301.7701-3(b)(3), unless a foreign eligible entity elects otherwise, the entity is: (A) a partnership if it has two or more members and at least one member does not have limited liability; (B) an association if all members have limited liability; or (C) disregarded as an entity separate from its owner if it has a single member that does not have limited liability.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing Form 8832 with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed.

Section 301.7701-3(c)(1)(iv) provides that if an eligible entity makes an election under § 301.7701-3(c)(1)(i) to change its classification (other than an election made by an existing entity to change its classification as of the effective date of this section), the entity cannot change its classification by election again during the sixty months succeeding the effective date of the election. However, the Commissioner may permit the entity to change its classification by election within the sixty months if more than fifty percent of the ownership interests in the entity as of the effective date of the subsequent election are owned by persons that did not own any interests in the entity on the filing date or on the effective date of the entity's prior election.

Section 301.7701-3(c)(2)(i) provides, in general, that an election made under § 301.7701-3(c)(1)(i) must be signed by (A) each member of the electing entity who is an owner at the time the election is filed; or (B) any officer, manager, or member of the electing entity who is authorized (under local law or the entity's organizational documents) to make the election and who represents to having such authorization under penalties of perjury.

Section 301.7701-3(c)(2)(iii) provides that, for purposes of § 301.7701-3(c)(2)(i), if an election under § 301.7701-3(c)(1)(i) is made to change the classification of an entity, each person who was an owner on the date that any transactions under § 301.7701-3(g) are deemed to occur, and who is not an owner at the time the election is filed, must also sign the election.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) provides that the term “regulatory election” includes an election whose due date is prescribed by a regulation published in the Federal Register.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make the election. Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

Based solely on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of 120 days from the date of this letter to file a Form 8832 with the appropriate service center and elect to be treated as an association taxable as a corporation for federal tax purposes, effective Date3. A copy of this letter should be attached to the Form 8832. A copy is enclosed for that purpose.

This letter is contingent on X filing a Form 8832 containing the signatures of all required persons, including A and B, pursuant to § 301.7701-3(c)(2).

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Internal Revenue Code and the regulations thereunder.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, copies of this letter are being sent to X's authorized representatives.

Sincerely,

Associate Chief Counsel  
(Passthroughs & Special Industries)

By:

\_\_\_\_\_  
Charlotte Chyr  
Senior Technician Reviewer, Branch 2  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter

Copy for § 6110 purposes